

MINUTES

**MONTANA SENATE
58th LEGISLATURE - REGULAR SESSION
COMMITTEE ON STATE ADMINISTRATION**

Call to Order: By **CHAIRMAN JOHN COBB**, on January 27, 2003 at 3:00 P.M., in Room 335 Capitol.

ROLL CALL

Members Present:

Sen. John Cobb, Chairman (R)
Sen. Mike Sprague, Vice Chairman (R)
Sen. Kelly Gebhardt (R)
Sen. Carolyn Squires (D)
Sen. Mike Wheat (D)

Members Excused: None.

Members Absent: None.

Staff Present: Pat Murdo, Legislative Branch
Mona Spaulding, Committee Secretary

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Hearing & Date Posted: SB 204, 1/13/2003; SB 203,
1/13/2003; SB 239, 1/20/2003; SB
243, 1/22/2003
Executive Action: SB 178; SB 145; SB 203; SB 204; SB
54; SB 243

HEARING ON SB 204

Sponsor: SENATOR MIKE TAYLOR, SD 37

Proponents: Nancy Schlepp, Montana Farm Bureau

Opponents: Mike Fellows

Opening Statement by Sponsor: SEN. TAYLOR, SD 37, said he was in favor of term limits. There is a bill this session favoring annual Legislative sessions. SEN. TAYLOR said if it passed, he probably would not favor SB 204. The bill gives Senators and Representatives a maximum total of twelve years in the Legislature, where now eight are now possible. He said twelve years seemed to be the right number. His experience, as a freshman Legislator, was that it was almost impossible to learn the system. Experience is gained over time; and the last two sessions are the most productive--when Legislators understand what to do for their constituents, how to handle the process and become effective. With term limits set at twelve years, six sessions, Montanans would have the term limits they want and the Legislature would not suffer an excessive loss of institutional memory. SEN. TAYLOR said lines 20-21 remain in the bill on the advice of Chief Legal Council. He said a loss of institutional memory in a short time presented difficulties that would ultimately require specialization--serving on one committee, perhaps two. With more time, a Legislator can serve on more committees, and become more versed. If Legislators serve longer periods of time, the playing field with lobbyists is leveled because they have a foundation of personal knowledge. It is not so necessary to rely on the expertise of others.

Proponents' Testimony: Nancy Schlepp, representing Montana Farm Bureau (MFB), explained how MFB policy is made. County members can bring policy to county meetings; if the vote passes there, it goes on to the State convention; if it passes there, it goes into the policy book. MFB lobbyists can only lobby from the policy book. MFB members are not in favor of term limits. MFB supports SB 204 even though it is not related to agriculture because they feel strongly about the issue. She said the bill moves a step in the right direction. It helps bring back Constitutional memory, and brings a better balance between lobbyists, agencies and Legislators.

Opponents' Testimony: None.

Questions from Committee Members and Responses: SEN. WHEAT was interested that the sponsor would not support SB 204 if one of the annual Legislative session bills passed. He said those bills were geared to split policy and budget sessions, rotating them. SEN. TAYLOR said he didn't realize fiscal and policy would be rotating; his statement was based on annual sessions. In the scenario SEN. WHEAT gave, he would probably be in favor of SB 204.

SEN. SPRAGUE said, along the line of annual sessions, and realizing that in twelve years you would serve twelve sessions, institutional knowledge would be acquired. Most people serve

either on finance and claims, or will be in committees dealing with social issues. He assumes from **SEN. TAYLOR's** answer that with annual sessions, Legislators coming twice as often, value or time spent--not volume--would be important. **SEN. TAYLOR** said that was correct, as long as annual sessions were full sessions. If budget is split from policy, unless the member is on Finance and Claims, he or she is out of the loop in the learning experience.

SEN. SPRAGUE asked if the MFB had taken a stand on annual sessions. **Ms. Schlepp** said the MFB is opposed to annual sessions, mainly because of the cost. In response to **SEN. TAYLOR** she said it was important to build institutional knowledge. The longer a Legislator sits, the better off the State is. MFB would probably go so far as to leave the language as "12 or more years in any 16 year period." (SB 204, lines 18-19)

Closing by Sponsor: **SEN. TAYLOR** said this, as a Constitutional issue, is a vote of the people. It needs to be a ballot issue. It's critical to remember that voters have the opportunity to change office holders; but that it is very difficult to beat incumbents. In his opinion, there has to be some basis as to how long terms extend.

HEARING ON SB 203

Sponsor: **SENATOR MIKE TAYLOR, SD 37**

Proponents: None.

Opponents: **Mike Fellows**

Opening Statement by Sponsor: **SENATOR MIKE TAYLOR, SD 37**, said SB 203 would bring a unique policy change. It is a Constitutional change and would go to the vote of the people. He said whether or not the bill moved forward this session, serious consideration should be given to the concept. Should SB 204 not pass, then SB 203 would be moot. Under SB 203, House members would run every four years; Senate members, like the U.S. Senate, would run every six years. It would save cost, time, and energy. **SEN. TAYLOR** referred to the 2000 campaign: The highest cost in a Senate race was \$36,387 (surpassed this year by approximately \$60,000); the highest cost in the House was \$25,831. Those figures can't be justified by the pay scale of the office holder. He said if SB 203 became law: 1) It would cut the cost of elections. 2) It would cut the time candidates would have to run for office--which is all the time for a House seat. 3) The policy has worked in the U.S. Senate. 4) Since a House member is running for office continuously, decisions are based on running for

office. 5) There would always be good candidates. **SEN. TAYLOR** asked to have the debate on the floor.

Proponents' Testimony: None.

Opponents' Testimony: **Mike Fellows, Missoula,** said he believes term limits have been working since they were passed in 1992. He has concerns about this bill. It is hard to run against incumbents. It may be good that the issues are presented to the voters; but if voters keep saying no, when do you stop. He said it seemed Montana was getting into a situation like Idaho and Oregon where bills of this type keep getting pushed on the voters.

Questions from Committee Members and Responses: **SEN. WHEAT** asked **SEN. TAYLOR** why, if the voters are the last arbiters, the term should be extended in this manner. **SEN. TAYLOR** said SB 204 was an extension of SB 203. If term limits change to twelve years, candidates for the Senate would have to run only two times in twelve years; in the house, candidates would run three times in twelve years. It would abate some of the consternation of campaigns. He said with communications today, Legislators would be held accountable for their actions. When the Constitution was framed, election considerations were based on different communication criteria.

SEN. SPRAGUE asked if annual sessions were applicable to SB 204. **SEN. TAYLOR** said it wouldn't make a difference. **SEN. SPRAGUE** asked if he would favor the bill if there were annual sessions. **SEN. TAYLOR** said if terms were not set at twelve years, and the sessions were not alternately budget and policy, he would have to take a hard look. SB 203 is more about how often candidates run than how long the term is; but it is geared for twelve years.

SEN. SPRAGUE said there was no way an annual session could handle both domestic and budget issues. Some have advocated 45-day, some 60-day sessions. It is hard to do the session in 90 days. Logically, half the pie would be considered one annual session, and half the other--like Colorado. **SEN. SQUIRES** asked **SEN. TAYLOR** if his perception was having 90-day annual sessions. **SEN. TAYLOR** said he had been to the Colorado Legislature; they take up both policy and budget issues if it's necessary. They run sessions yearly in 60 days. Oregon runs sessions in 45 days; and they cover both. He said if domestic and budget issues are separated, more time is needed to acquire institutional memory.

SEN. SQUIRES said, with the reapportionment process occurring every ten years, people will get short shrift. Districts would change representation without really getting to know their people in the process. **SEN. TAYLOR** had no comment. Mathematically, he said the equations worked.

Closing by Sponsor: SEN. TAYLOR said he thought everyone understood the bill. He thanked the Committee for their consideration.

EXECUTIVE ACTION SB 178

Motion: SEN. GEBHARDT moved that SB 178 DO PASS.

Discussion: SEN. WHEAT said he found it interesting that the sponsor has a bill doing away with term limits, and also one opposing term limits, and said emphatically during the hearing that she doesn't believe in term limits. That aside, SEN. WHEAT doesn't think there is evidence to support term limits for Supreme Court judges. Only two or three have ever served more than sixteen years. The electorate is now doing what SB 178 asks to be done. He said SB 178 should not pass from Committee.

SEN. SPRAGUE said the applicable term was "train wreck." The sponsor is anticipating a train wreck. SB 178 is an offensive move to get a defensive move. He said it was interesting that the courts wouldn't take term limits because of time elapsed. SB 178 will get the attention of the court.

Motion/Vote: SEN. GEBHARDT called for the question that SB 178 DO PASS. Motion failed 2-3 with COBB, SQUIRES, and WHEAT voting no.

Motion/Vote: CHAIRMAN COBB moved SB 178 BE INDEFINITELY POSTPONED. Motion carried 4-1 with GEBHARDT voting no.

EXECUTIVE ACTION SB 145

Discussion: Pat Murdo distributed amendments **EXHIBIT**(sts17a01) (SB014501.apm) She said that SEN. SQUIRES asked if the National and Community Service Act of 1990 included AmeriCorp. It does. USA Freedom Corp is not included; it was established by Executive order. {Tape: 1; Side: B}

SEN. SPRAGUE said organizations had to be fully funded.

Motion: CHAIRMAN COBB moved SB 145.

Motion/Vote: CHAIRMAN COBB moved AMENDMENTS TO SB 145.

Motion/Vote: SEN. GEBHARDT called for the question that the AMENDMENTS TO SD 145 DO PASS. Motion carried unanimously. (180913SC.sjo)

Motion/Vote: CHAIRMAN COBB moved that SB 145 DO PASS AS AMENDED. Motion carried unanimously.

EXECUTIVE ACTION SB 203

Motion: CHAIRMAN COBB moved to INDEFINITELY POSTPONE SB 203.

Discussion: SEN. GEBHARDT said it wasn't a bad bill.

SEN. WHEAT said his concern was so many bills were related. There are going to be a lot of ballot issues going to the electorate. Some deal with term limits; some deal with annual sessions. He would rather have the electorate reconsider term limits. The Federal U.S. Supreme Court has stricken term limits.

SEN. SPRAGUE said he agreed in part. He's not voting for the bill either, but it does have another process. A bill passing from Committee has a long way to go before it goes to the electorate.

SEN. WHEAT said he understood that. But he would rather have the full debate on the floor on term limits and annual sessions.

Motion/Vote: SEN. COBB called for the question to INDEFINITELY POSTPONE SB 203. Motion carried 4-1 with GEBHARDT voting no.

EXECUTIVE ACTION SB 204

Motion: SEN. WHEAT moved to INDEFINITELY POSTPONE SB 204.

Discussion: SEN. SPRAGUE said the public can digest SB 204. He is confused about the sponsor's correlation on annual sessions. He thinks the electorate meant to limit the number of years, but not necessarily at eight. SB 204 would help establish the number of years the voters meant to establish.

SEN. GEBHARDT said a similar bill was coming from the House. The Committee should wait to compare it.

CHAIRMAN COBB told the Committee SEN. MCCARTHY's bill has been passed. That bill gets rid of term limits if the Committee passes it.

SEN. SPRAGUE asked if SB 204 was the only bill of it's kind. SEN. GEBHARDT said REP. MONICA LINDEEN, HD7, had one in the House.

Motion: SEN. WHEAT withdrew the motion to INDEFINITELY POSTPONE SB 204. CHAIRMAN COBB said the bill will be held in Committee

EXECUTIVE ACTION SB 54

Discussion: **CHAIRMAN COBB** said SB 54 came back to Committee from the floor. There are amendments (SB005402.apm) **EXHIBIT(sts17a02)**.

Pat Murdo said the amendments clarify that the Commissioner of Political Practices (COPP) is subject to recall; it will transfer the ability to remove the Commissioner to three people: the Governor, Secretary of State, and Attorney General. The word "partisan" has been removed.

SEN. WHEAT said he had a copy of the taped floor session, and would like the Committee to have the benefit of looking at it before taking action on SB 54. The Committee agreed to hold SB 54 in Committee.

HEARING ON SB 239

Proponents: **Thomas Schneider**, Montana Public Employers Association (MPEA); **Connie Welsh**, Department of Administration, Bureau Chief, Employee Benefits Bureau

Opponents: None.

Opening Statement by Sponsor: **SENATOR JEFF MANGAN, SD 23**, said SB 239 is a retirement incentive that gives one year of insurance for every five years of service. It's not a new idea. Many people are not retiring because they can't afford to pay the insurance. This is not **SEN. MANGAN's** area of expertise. He became aware of the situation through a friend who can't afford to retire because of the cost of health insurance. Currently there are 725 PERS employees eligible for normal retirement. A retired single person pays \$366/month for insurance; a family pays \$526/month. **Ms. Heffelfinger** has prepared an information sheet. **EXHIBIT(sts17a03)** SB 239 does not represent a short-term, biennium savings. Retirement incentives never do. In the long-run, the State will save money.

Proponents' Testimony: **Thomas Schneider**, representing the **Montana Public Employers Association (MPEA)**, said this was not MPEA's bill. He said, if the Committee is looking for an incentive to get State employees to retire, nothing would work better than SB 239. The sponsor has expressed the exact reason why people are not retiring: They can't afford health insurance. **Mr. Schneider** has examples: A retiree who is not Medicare eligible will pay \$335/month out-of-pocket to retire; the retiree with spouse will pay \$509/month out-of-pocket. For the Medicare-eligible retiree, the current rate is \$209/month for the employee; \$414/month for the employee and spouse. He said the problem is that those costs are probably going up by \$95/month for the employee over the next

two years; and \$190/month for the employee and spouse. While we're talking about \$509/month today, we're probably talking about close to \$700/month two years from now. That is why there are over 700 people who are ready to retire under the normal retirement benefit--not early retirement options--who are not retiring at this point. Twenty-eight states currently provide some form of assistance for retirees for medical purposes. The highest one currently is \$513/month in Louisiana; the lowest is about \$85/month in Washington. If the Committee wants to provide a way for people to retire, SB 239 will provide it, and in an equitable fashion. If a person has only worked five years, that person would only receive one year of medical benefits. **Mr. Schneider** said MPEA would support the bill.

Opponents' Testimony: None.

Questions from Committee Members and Responses: **SEN. WHEAT** asked if insurance costs were going up on an annual basis, or was the \$95/month a biennial raise. **Mr. Schneider** said it was annual. He said he sits on the State Employee Benefits Advisory Council where the figures are reviewed all the time, but that **Connie Welsh, Department of Administration, Bureau Chief, Employee Benefits Bureau**, would have better figures. **Ms. Welsh** said, looking ahead to the 2004-05 biennium, actuaries are projecting a 12% trend. At the current state contribution rate of \$366/month, that will be a \$41-50/month increase. HB 13 is proposing a \$44/month increase. The State does not provide the match for all of the dependent care. We know it will go up at least the amount of the State share.

(The chair passed from **SEN. COBB** to **SEN. SPRAGUE**.)

CHAIRMAN SPRAGUE asked **Ms. Welsh** to prepare an information sheet for the Committee.

SEN. GEBHARDT {Tape: 2; Side: A} asked for the definition of State employee. **Ms. Welsh** said in 2-18-704 State employee is specifically described as an employee of the State of Montana. It exempts employees of cities, towns and counties; the Montana University system. Under the health plan's eligibility rules, it is prescribed that people must be in pay status of 20 hours or more per week.

CHAIRMAN SPRAGUE asked who was not a State Employee. **Ms. Welsh** said K-12, and the University system are not State employees for the purposes of the State plan. Legislators are, even though they are not employed 20 hours per week.

SEN. WHEAT asked for a listing of total number of State employees to be included in the information sheet prepared for the Committee relative to insurance costs and projected increases. **Ms. Welsh** said she would. She gave 731 as total number of eligible employees she had recently seen.

SEN. WHEAT asked if any thought had been given to not rehire vacated positions if SB 239 passed. **SEN. MANGAN** said no. He said savings to the State should be calculated taking variables into consideration. Even if jobs were filled, there would be a savings in salaries.

SEN. GEBHARDT asked about the usage of "terminates employment" on line 11. **Mr. Schneider** said it was normal language from the Council: To be eligible for the benefit you have to be eligible, AND you have to terminate your employment.

CHAIRMAN SPRAGUE asked if he terminated at 62 years of age, is it called retirement or termination; and is he eligible. **Mr. Schneider** said if he had 30 years of service, or if he was 60 years old it would be a normal retirement, and he would qualify. You can't cut down to one-quarter time and still get the benefit. You have to quit.

Closing by Sponsor: **SEN. MANGAN** said he appreciated the Committees consideration. SB 239 has merit.

SEN. WHEAT asked to pose an additional question to **Ms. Welsh**. He asked her to calculate how much it cost the State to keep the PERS-eligible people employed, compared to how much it would cost the State if they all retired under this plan.

CHAIRMAN SPRAGUE said **SEN. GEBHARDT** had guesstimated about \$756,000/annually. **Ms. Welsh** said she would calculate the figure.

HEARING ON SB 243

Sponsor: **SENATOR MIKE WHEAT, SD 14**

Proponents: **Bruce Brensdal**, Board of Housing

Opponents: None.

Informational: **Scott Hoversland**, Board of Housing; **Hank Hudson**, Dept. of Public Health

Opening Statement by Sponsor: **SENATOR MIKE WHEAT, SD 14**, said he brought the bill at the request of **SENATOR JON TESTER**. In 1975 the Board of Housing was established by the Montana Housing Act. It is attached to the Department of Commerce for administrative purposes. This is a quasi-judicial board, and is accounted for as an Enterprise fund. The 1999 Legislative session created the Affordable Housing Revolving Loan Account and assigned it to the Board for administrative purposes. The account is funded by three sources: 1) A one-time federal home loan bank grant of \$1,500,000 that was loaned to seven preservation housing projects in Montana; 2) the transfer of \$500,000 from Section VIII reserve

funds, that was loaned to two housing projects; and 3) allocation of \$700,000 of Temporary Assistance for Needy Families (TANIF) funds. There was a Legislative audit done. **SEN. WHEAT** distributed two pages of the audit concerning the information at issue.

EXHIBIT (sts17a04) One of the recommendations that came from the audit was to change the statute so that the Affordable Housing Revolving Fund be moved from the State Special Revenue Fund to the Housing Authority Enterprise Fund. That is what SB 243 does. SB 243 is a housecleaning bill.

CHAIRMAN SPRAGUE told **SEN. WHEAT** this was the sort of bill that would ordinarily be heard in Business and Labor. The hearing will continue.

Proponents' Testimony: **Bruce Brensdal, Executive Director, Board of Housing**, said he administers the Affordable Housing Revolving Loan Account. The two audit findings that have been made are: 1) That expenses were not being paid from the Account. Part of the problem is that all of the Board of Housing operates as an Enterprise Account except for this little piece that State law requires to be in the Special Revenue Account. It is difficult to manage that way. 2) The Revolving Loan Account meets the Enterprise Account requirements. State law does require meeting Generally Accepted Accounting Principles (GAAP). As things stand, GAAP are being broken.

Opponents' Testimony: None

Questions from Committee Members and Responses: **SEN. GEBHARDT** asked why the money didn't get accounted for. **Mr. Brensdal** said it was not an on-going fund. In 1999 the account was set up in State law and was not funded. The Board of Housing received a \$1,500,000 grant for seven specific housing projects in western Montana. Loans were made to those projects and placed in the account. As the loans pay off over the next 50 years, the money will revolve into other housing projects. That was the initial funding source. The last Legislature put two separate funding sources into the account: \$500,000 from a Section VIII Reserve Account; and about \$3,500,000 of TANIF funds. That amount was reduced to \$700,000 in the Special Session. It's all in the same account, but funded with three different things. There is no continuing funding for the account. The only income to the fund is repayment of loans; there is no funding stream adequate to provide new loans at this time.

SEN. SPRAGUE said many Board of Housing issues came through Business and Labor. He asked if SB 243 was the same as the bills currently in that Committee. **Mr. Brensdal** said no. **SEN. SPRAGUE** asked if everything was being tucked under one umbrella. **Mr. Brensdal** said yes. This is a technical problem.

SEN. SPRAGUE summarized the problem saying the auditor says you must comply with GAAP. This has nothing to do with Housing money except how you report it: It's an accounting procedure. **Mr. Brensdal** said yes.

Closing by Sponsor: **SEN. WHEAT** referred to EXHIBIT (4). Just above the box, Recommendation #4, where there is wording that explains SB 243 precisely.

EXECUTIVE ACTION SB 243

(**SEN. COBB** resumed the Chair.)

Motion/Vote: **SEN. SQUIRES** moved that **SB 243 DO PASS**. Motion carried unanimously.

Announcements: **CHAIRMAN COBB** said there would be executive session for the three annual session bills on Wednesday.

SEN. SPRAGUE, using a hypothetical example, said if one of the bills came from committee and died on the floor--not because of general disagreement with annual sessions, but because of the "menu" of the bill--the Committee ought to be prepared to bring another bill; or to send an either/or to the floor.

ADJOURNMENT

Adjournment: 4:30 P.M.

SEN. JOHN COBB, Chairman

MONA SPAULDING, Secretary

JC/MS

EXHIBIT (sts17aad)